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U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MIGUEL ESCOBAR SOTO; et al.,

Petitioners,

v.

MICHAEL B. MUKASEY, Acting
Attorney General,

Respondent.

No. 06-71605

Agency Nos. A96-067-309
A96-067-310

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted November 13, 2007^{**}

Before: TROTT, W. FLETCHER and CALLAHAN, Circuit Judges.

Miguel Escobar Soto and Consuelo Aldaba Hinojosa, natives and citizens of Mexico, petition for review of the Board of Immigration Appeals' denial of their

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

motion to reopen based on new evidence, seeking to establish the requisite exceptional and extremely unusual hardship to their four qualifying United States citizen children. In their motion to reopen, petitioners submitted evidence of their children's health problems which were not known at the time of their merits hearing.

Even if we have jurisdiction over the petition for review because the motion to reopen presented a new medical basis for relief, rather than cumulative evidence previously considered when the immigration judge denied the application for cancellation of removal, *see Fernandez v. Gonzales*, 439 F.3d 592, 601 (9th Cir.2006), we conclude that the BIA considered the evidence submitted and acted within its broad discretion in determining that the evidence was insufficient to warrant reopening. *See Singh v. INS*, 295 F.3d 1037, 1039 (9th Cir. 2002) (The BIA's denial of a motion to reopen shall be reversed if it is "arbitrary, irrational, or contrary to law.").

PETITION FOR REVIEW DENIED.